

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**MICHAEL TABA,**

**Defendant.**

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**3:17-CR-155-L-07**

**DEFENDANT TABA’S PROPOSED VOIR DIRE QUESTIONS**

**TO THE HONORABLE JUDGE SAM A. LINDSAY:**

COMES NOW, MICHAEL TABA, defendant, by and through his counsel of record, Erin Brennan, and hereby files this request for specific questions to the jury panel pursuant to Rule 24(a) of the Federal Rules of Criminal Procedure. Dr. Taba hereby requests that the Court ask the following questions to the jury panel:

1. Are you acquainted with any Assistant United States Attorneys, or anyone at the U.S. Attorney’s Office? Have you ever been employed by the United States Attorney’s Office anywhere in the United States?
2. Is someone close to you employed or associated with the United States Postal Inspection Service, the Department of Labor, or any other department or agency of the United States Government?
  - A. The parties have submitted to the Court a list of possible witnesses. The Court is going to read each name and you should raise your hand if you hear a name which may be familiar to you.
3. Do you know any other members of this jury panel?
4. Have you ever served on a jury before? If so, was it a grand jury or a trial jury; was it in State or Federal Court; in what year did you serve; what kind of case did you sit on –

criminal or civil; if a trial jury, was a verdict reached; and, if so, what was the verdict?

5. Do any of you have any reason why you absolutely could not at this time serve as a juror in a trial that might last six weeks?
6. Have you ever been personally interested in the outcome of a criminal case? Have you ever been a witness or victim of a crime? Discuss circumstances.
7. Are there any members of the panel who would be more likely to believe the testimony of a government agent solely because he or she is a government employee?
  - Meaning that if you have a government agent testify and then you have a lay witness testify, do you agree that they both start at the same level?
  - So nobody here is going to find a government employee more credible just because he is a government employee?
8. Dr. Taba is of Persian descent. Have you had an experience or formed an opinion that may make it difficult for you to be fair and impartial to the defendant who is Persian?
  - Raise your hand if you have a friend or family member who is of Persian descent. Now, raise your hand if you don't – is there any particular reason for that?
9. The laws of the United States provide:
  - A. That the Government has the burden of proving each and every allegation in the indictment beyond a reasonable doubt;
  - B. That an accused is presumed to be innocent and this presumption of innocence goes to every element of the offense charged;
  - C. That an accused is not required to prove his innocence or to present any evidence;
  - D. That the burden of proof remains on the Government throughout the entire proceedings.

- Is there any member of the panel, who for personal, religious, or any other reason, feels that he or she cannot comply with any portion of the law that I have just recited to you?
10. Would you require Dr. Taba to satisfy you as to his innocence by either presenting evidence or testifying?
  11. Do each of you understand that the Superseding Indictment is not evidence of guilt in this case and cannot be considered as evidence of guilt?
  12. Is there any member of the jury panel who thinks that Dr. Taba must have done something wrong, or he would not be present in this courtroom today?
  13. Do each of you understand that as Dr. Taba sits here before you, he is not any guiltier of violating the law than any member of the jury panel or any other participant in this trial?
  14. Have you reached or formed any conclusions in your mind concerning the allegations in this Superseding Indictment that would require Dr. Taba to present any evidence to dispel?
  15. The law of the United States provides that a defendant does not have to testify in a criminal case. Our law further provides that if the defendant does not testify, you may not consider that for any purpose in deciding his guilt or innocence. Is there any member on this jury panel who, because of personal feelings or otherwise, would not be able to follow that law? If so, please raise your hand.
  16. Is there any member of the jury panel who feels that if Dr. Taba does not testify, it is an indication of guilt? If so, please raise your hand. If no hands, then everybody understands that there are various reasons why Dr. Taba may choose not to testify? For example, his lawyer may advise him not to testify, there may be no need for him to testify, or he may have a fear of public speaking.
  17. If, from your experiences, you believe or have the feeling that certain facts exist, but the facts have not been proven by satisfactory evidence, would you discard your beliefs and

feelings, and decide this case on the evidence or lack thereof?

18. Is there any member of the panel who does not agree with our law which places the burden of proof of every allegation in the indictment beyond a reasonable doubt on the Government to such an extent that they would not be able to comply with the law?
19. Do any of you believe that it is unfair to hold the government to such a high burden as beyond a reasonable doubt?
20. Does everyone agree that the worst outcome of a criminal trial is that an innocent person is convicted? Raise hands, if so.
  - Does anyone here think that a guilty person being set free is worse?
  - For example, let's say an innocent person is convicted of robbery and spends 20 years in prison for a crime he did not commit, or a person is guilty of robbery but is not convicted. Which is worse?
  - Does everyone here agree that wrongful convictions do occur?  
Everyone has heard about innocent defendants that are convicted and then later exonerated by DNA evidence or a witness recanting, etc.?
21. Do you agree with the proposition that you are enforcing the law just as vigorously by voting for acquittal if there is a reasonable doubt as to guilt as you do by voting for conviction where there is no such doubt?
22. Do each of you understand that an attorney has a legal duty to object to evidence that she feels should not legally be before the jury?
23. Do each of you understand that you cannot consider the fact that objections were made to certain evidence as any indication of a person's guilt?
24. Has anyone been interviewed by the government in connection with any type of criminal investigation? What were those results?

**Case Specific Questions**

1. Have you or a loved one undergone orthopedic surgery?
2. Has anyone or a loved one gotten a second opinion from a doctor that was different from the first opinion?
3. Has anyone ever had any kind of surgical procedure for which an insurance company was billed?
4. Has anyone ever viewed, reviewed, or challenged the statement of claims submitted on their behalf for any type of medical treatment?
5. Has anyone ever picked up a prescription from a pharmacy for someone else?
6. Has anyone ever dealt with a pharmacy calling to verify arrival of the shipment of their medicine as opposed to picking up the medication from the pharmacy?
7. Has anyone been the subject of an insurance claim pertaining to a prescription medication and reviewed the insurance claim submitted by the pharmacy?
8. Is anyone a beneficiary of the Department of Labor or Office of Workers' Compensation Program by the Federal Government?
9. Has anyone worked as a claims adjuster or a review specialist for any healthcare insurance company?
10. Has anyone been involved in any civil suit where there was a settlement?
11. Has anyone been involved in obtaining a line of credit from a bank?
12. Has anyone ever used a topical cream for any type of injury? Or for postoperative treatment to heal a surgical site?
13. Raise your hand if you know what a compound medication is.
14. Has anyone ever used a compound medication by a pharmacy before?
15. Who is familiar with what a drug insert is?
16. Has anyone been prescribed opioids before?
17. If you have been prescribed and taken opioids, how long did you take them and what were the circumstances?
18. Have you ever used a topical medication in addition to an opioid?

19. Do you believe that departing from a standard of care of a regulation or accepted practice is criminal?
20. Do you understand that if anyone violates the regulations set forth by insurance companies that this is not equivalent to committing a crime?

Respectfully,

/s/ Erin Brennan

Erin Brennan

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/s/ Steve Wells

Steve Wells

*Pro Hac Vice*

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### **CERTIFICATE OF SERVICE**

I hereby certify that on August 14, 2023, I electronically filed the foregoing document using the Court's CM/ECF system, thereby providing service on attorneys of record.

/s/ Erin Brennan

ERIN BRENNAN